

USAWC STRATEGY RESEARCH PROJECT

**DECAPITATION: A CASE FOR A BETTER GUILLOTINE**

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## **ABSTRACT**

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Decapitation is the application of kinetic operations designed to kill another actor's leadership to produce regime change or halt the actions of a non-state actor. Although rarely considered, it is a viable strategic concept. Decapitation is different than assassination and this difference, along with the current dual threats of terrorism and the proliferation of weapons of mass destruction, is what makes it a viable strategic concept. Decapitation is an ethical, moral, and legally sound way to achieve the desired end state. Therefore, the Executive Order prohibiting assassination should be amended to clarify the language, and decapitation should be embraced as one strategic concept that has utility in today's international arena.



## DECAPITATION: A CASE FOR A BETTER GUILLOTINE

Usama Bin Laden is still on the run and Saddam Hussein has been executed for crimes against his own people. The number of innocent Americans, Afghanis, Iraqis, and other nationalities' lives affected by these two individuals is staggering and continues to grow. Together they caused immense grief and despair both within a sovereign nation (Iraq) and internationally through numerous al Qaeda-sponsored terrorist attacks. If Presidents George W. Bush, William J. Clinton, or George H. W. Bush had perfect foresight and precise intelligence, they might have had the requisite moral courage to make a preemptive decapitation strike. This action would have saved countless lives and monetary wealth.<sup>1</sup>

The guillotine is used as a metaphor in the title as it represents a precise tool to bring about a desired end state of regime change. The French guillotine was developed in order to behead an individual effectively and efficiently and thus render the state's decision as cleanly as possible.<sup>2</sup> There was little doubt that a new regime was now in power when King Louis XVI and Queen Marie Antoinette were both decapitated in 1793.<sup>3</sup> President Bush, in the case of Usama Bin Laden, did single him out for removal potentially indicating that the current strategic environment requires a different concept.<sup>4</sup>

Globalization and the spread of weapons of mass destruction (WMD) have combined to create the possibility that a state or non-state actor can create immense damage with little or no warning. The ability, to find, fix, and target key leadership individuals, termed decapitation operations, should be embraced as a strategic concept that may be the proper strategy in some cases. As with any application of military power, this should be a "last resort" means to achieving the desired end state. Once reduced to kinetics however, decapitation should be a tool available to the United States as it is a legal, ethical, and morally acceptable way to achieve the desired end state of regime change or to halt the actions of a non-state actor. Regime change can be accomplished through a variety of measures that employ all or some of the elements of national power. Although it is possible to remove a regime using economic sanctions and diplomacy alone, as in the case of Haiti in 1994, these operations would not fall into the decapitation strategic concept.<sup>5</sup> Decapitation is the application of kinetic operations designed to kill another actor's leadership.

### Decapitation and Other Terms Defined

The terms that require defining are assassination, decapitation, and regime change. The term "regime change" will be defined first as this is the policy with which decapitation is associated. Regime, according to *Webster's Third New International Dictionary*, is most often

defined simply as the “government in power.”<sup>6</sup> Change, also according to Webster’s, is “to exchange for or replace with another.”<sup>7</sup> Applied to regime change this means to replace the current government’s leadership with another. The United States has attempted regime change at least 14 times over the last 200 years of its existence.<sup>8</sup> The first such regime change operation occurred in 1893 with the United States’ overthrow of the Hawaiian monarchy.<sup>9</sup> Regime change has been practiced by the United States, consciously or unconsciously, since at least the 19<sup>th</sup> century.

Assassination is defined by W. Hays Parks, the Army lawyer who established the accepted ruling on Executive Order 12333, in a variety of ways.<sup>10</sup> The definitions used by Parks come from a variety of sources and time periods, but they are similar. These definitions have common characteristics of treachery, violence, kill, political, but most importantly, they are accomplished by an individual.<sup>11</sup> Assassination is the treacherous murder of a political leader by individuals for reasons other than those sanctioned by the state.

The intent is to differentiate between assassination and decapitation. They are separate and distinct but they have been used interchangeably and the term assassination has been incorrectly applied. The thesis is that assassination is analogous to murder, and decapitation is analogous to the death penalty. An individual, for personal reasons or beliefs, carries out the first while the second is a legal act carried out by a state after due process. There are several states that sanction “assassination” attacks. This paper seeks to re-label those attacks as decapitation strikes if the objective is regime change or halting the actions of a non-state actor. Otherwise, they are just small military operations; not assassination as they are sanctioned and approved by a state. With a good understanding of assassination, decapitation can be defined.

It is worth noting that others have defined and written on various aspects of assassination with conflicting conclusions. Lieutenant Colonel J. Manning Bolchoz in his U.S. Army War College paper titled “Center of Gravity: Justification for Assassination,” defines “political assassination” as “the murder of a person who holds a position of public importance for the purpose of defeating the enemy and gaining strategic victory.”<sup>12</sup> His definition is very close to the definition of decapitation, which is the killing of leadership for the purpose of initiating regime change within a state or terminating hostile actions of a non-state actor. The important differences are that an individual conducts assassination while decapitation is not conducted “treacherously” and a state sanctions the act. This distinction will be expounded upon as decapitation is examined in further detail using examples from previous operations.

### Historical Examples of Decapitation

In order to clarify the definition of decapitation as opposed to assassination, two examples from World War II are examined. Lieutenant Colonel Michael Taliento in his paper entitled, "Targeting the Leadership of Terrorist Organizations,"<sup>13</sup> reviews several Allied operations. Taliento does a thorough job of analyzing both the British attempt to kill German Field Marshall Erwin Rommel and the United States' successful targeting of Admiral Isoruko Yamamoto. Neither of these operations, according to Parks, should be classified as assassination operations.<sup>14</sup> Both Rommel and Yamamoto were enemy combatants when they were targeted. The manner in which they were targeted was in accordance with international rules. Neither would fit into the decapitation category, as removing either of these individuals would not have brought about a regime change—they were not high enough in the leadership to be referred to as decapitation attempts. These were two small military operations within a larger conventional war. There have been several instances, however, where operations were classified as assassinations when they were in effect decapitation operations.

A good example of a decapitation strike by United States military forces was the 1986 Libya raid.<sup>15</sup> Although the list of approved targets did not specifically include Muammar al-Qaddafi personally as a target, two of his command and control compounds were targeted.<sup>16</sup> The Secretary of Defense during the Libya raid, Caspar W. Weinberger, implied that if the administration had known Qaddafi's actual whereabouts on the night of the raid, they would have gone after him.<sup>17</sup> If that had been the case, the Libya raid would have fit the definition of a decapitation strike. A state (the United States) determined the only effective way to bring about their desired end state (stop Libyan sponsorship of terrorism) was through killing of the top leadership individual (Qaddafi). Qaddafi was not killed, yet the results were positive. According to a RAND study, "Qaddafi reportedly suffered bouts of severe paranoia, apparently because of fears of another air attack."<sup>18</sup> The number of terrorist incidents in which Libya was involved dropped from 19 in 1986 to just 6 in both 1987 and 1988.<sup>19</sup> As a result, although Qaddafi was not a specific target, the context and intent of the raid was a decapitation operation. Two other recent examples, the targeting of Usama Bin Laden during Operation ENDURING FREEDOM (OEF) and of Saddam Hussein in Operation IRAQI FREEDOM (OIF), are clearly examples of decapitation in operation.

President Clinton authorized the Central Intelligence Agency to kill Usama Bin Laden before al Qaeda carried out the terrorist attacks of 9/11.<sup>20</sup> The United States did attempt to kill Usama Bin Laden in 1988 when they launched a cruise missile attack on al Qaeda bases in Afghanistan.<sup>21</sup> The intent of the strikes was to retaliate for past terrorist activities by al Qaeda

operatives and to kill Usama Bin Laden himself.<sup>22</sup> This clearly fits within the definition of decapitation. Post-9/11, President Bush also approved a decapitation strike against Usama Bin Laden.

Shortly after 9/11, President Bush signed an "intelligence finding" that gave the Central Intelligence Agency a "green light to do whatever is necessary. Lethal operations that were unthinkable pre-September 11 are now underway."<sup>23</sup> This was not an assassination attempt. The president followed proper United States procedures to determine that removing Usama Bin Laden would bring about the desired end-state. This is a clear example of a state using the strategic concept of decapitation to achieve a strategic objective. Throughout OEF, attacks were planned and carried out with the intention of killing Usama Bin Laden. One of these was the bombing of and fighting around Tora Bora in Afghanistan during December 2001.<sup>24</sup> Senior government and military leaders expressed interest in and a desire to kill Usama Bin Laden at Tora Bora. The failure to accomplish this objective has been called the "gravest failure" of OEF.<sup>25</sup> Although the decapitation operations against Usama Bin Laden were not successful, they are good examples of the strategic concept in action. The attempts to kill Saddam Hussein were similar and offer yet another example of decapitation strikes.

During the first Gulf War (DESERT STORM) in 1991, a stand-alone decapitation strike against Saddam Hussein was not considered as a viable option.<sup>26</sup> The major reason was because the authority and legitimacy to use force was obtained from the United Nations (UN). In August of 1990, President Bush approved National Security Directive 45, "U.S. Policy in Response to the Iraqi Invasion of Kuwait," that listed the objectives as the "immediate, complete, and unconditional withdrawal of all Iraqi forces from Kuwait," and the "restoration of Kuwait's legitimate government to replace the puppet regime installed by Iraq."<sup>27</sup> Then in November of 1990, the UN approved Security Council Resolution 678, which stated "if Iraqi dictator Saddam Hussein did not remove his troops from Kuwait by January 15, 1991 a U.S.-led coalition was authorized to drive them out."<sup>28</sup> These two documents provided the basis for prosecuting the war and also the constraints on the strategy that could be used. Under these two documents, decapitation strikes were not authorized. However, that is not to say that killing Saddam was not a part of the overall war plan. Attempting to do so as a stand-alone decapitation attempt itself was not an option. During the Gulf War numerous attempts were made to target Saddam with near success.<sup>29</sup> The road to war in OIF was similar, but a decapitation option had a better chance of being selected as the primary strategic concept.

As part of the global war on terror, President Bush in September 2002 gave a speech to the UN in an attempt to make a case for war with Iraq.<sup>30</sup> The basis for his argument was



Saddam's disregard of previous UN resolutions. President Bush was unable to convince the UN to authorize the use of force in Iraq to bring about regime change.<sup>31</sup> Therefore, the United States chose a path of preemption and initiated planning for OIF without the legitimacy of the UN. The United States was able to build a coalition, but without the UN's legitimacy the coalition was not as large as the one built during the Gulf War. Although President Bush's administration had discussed preemptive attacks as policy before 9/11, the international and domestic strategic climate was not acceptable to this policy change.<sup>32</sup> It was not until after 9/11 that a unilateral preemptive doctrine would be publicly acceptable.<sup>33</sup> The United States decided to proceed without UN approval, and therefore any UN constraints, and the policy of preemption was part of our National Security Strategy.<sup>34</sup> Since there was no UN resolution authorizing the use of force, a decapitation strike alone could have been used. Although this was not the option selected by President Bush, it was attempted before initiating conventional operations. On 19 March 2003, President Bush gave the approval for a decapitation strike directly against Saddam and some of his key leaders.<sup>35</sup> The strike was unsuccessful, but this is a perfect example of a state attempting a decapitation strike against another state in order to bring about regime change. Both the attempts on Usama Bin Laden and Saddam Hussein illustrate the limitations of decapitation strikes and their reliance on accurate intelligence. In order to focus on the thesis and address the costs and benefits of decapitation, two assumptions are made.

### Assumptions

The assumption is that some type of analysis has been completed that implies that the removal of an individual or the removal of a small group of leadership will bring about the desired end state. The desired end state is regime change and/or termination of hostile actions by a non-state actor. Bolchoz makes the same types of assumptions so he can focus on his thesis development.<sup>36</sup> This analysis could include a center of gravity (COG) determination as defined by Warden.<sup>37</sup> The fact that certain individuals can be a COG is documented in the current *National Military Strategic Plan for the War on Terrorism*. This document states that "various centers of gravity exist, including key leaders."<sup>38</sup> The COG analysis can be part of an effects-based approach to determine the key target(s). The key assumption is that some form of analysis is completed that indicates that the elimination of individuals will produce the desired effect. The second assumption is that the United States either possesses the ability to find and fix individuals or this ability can be achieved if resourced properly.

Intelligence is a key enabler in all military actions. For decapitation operations where the precise location of certain individuals must be known in advance, intelligence is vital. The

United States' strategic leaders recognize this fact and the importance of intelligence is stressed in all recent National Security-related documents.<sup>39</sup> For example, *The National Defense Strategy of the United States of America* discusses intelligence requirements in depth under the topic of "Irregular" challenges.<sup>40</sup> These requirements include the ability to "identify, locate, track, and engage individual enemies."<sup>41</sup> Once an individual has been identified as a potential COG, the United States has the capability and resources to develop the necessary intelligence capability to find, fix, and subsequently target him. These two assumptions, together with an understanding of the terms, set the foundation for understanding decapitation as a strategic concept. The current global security environment may require a tool from the past to deal with the crisis of the present.

### Current Strategic Climate

President Bush has already publicly identified at least one individual for decapitation.<sup>42</sup> Additionally, President Bush stated the strategic security environment is "radically different from what we have faced before."<sup>43</sup> This is not an earth shattering or novel new concept, however the increased threat from WMD and the effects of the 11 September 2001 (9/11) terrorist attacks combine to produce a strategic context unlike any previous environment. The 2002 *National Security Strategy* (NSS) was a watershed document that recognized this fact. Section V. of the 2002 NSS, which explains the United States policy on preventing WMD attacks, states, "To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively."<sup>44</sup> This statement is directly related to the level of threat presented by WMD and the lack of an overtly visible imminence of that threat. These factors, combined with the events of 9/11, led President Bush to determine that preemptive action is necessary at times. In testimony presented to the Senate Subcommittee on Terrorism, Technology, and Homeland Security, Dr. Michael O'Hanlon, the Senior Fellow in Foreign Policy Studies at the Brookings Institution, included estimates on the number of potential casualties and recovery costs from a WMD attack. These include up to 1 million casualties, 450 thousand evacuees, and a potential economic cost of up to \$1 trillion.<sup>45</sup> President Bush's administration recognized the level of the threat and determined that preemptive action would be required to keep America safe. The 2006 United States strategic-level documents have expounded upon the concept of preemption. The present terrorist threats and number of rogue states, coupled with the growing availability of WMD, combine to create a potentially cataclysmic strategic climate that requires creative thinking. A review of the views expressed in the 2006 strategic level documents explains just how radically different today's environment has become.

*The National Security Strategy of the United States of America:* There are few greater threats than a terrorist attack with WMD. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively in exercising our inherent right of self-defense.<sup>46</sup>

*National Strategy for Combating Terrorism:* The new global environment, with its resultant terrorist interconnectivity, and WMD are changing the nature of terrorism.<sup>47</sup>

*National Strategy for Combating Terrorism:* If necessary, however, we will not hesitate to act alone, to exercise our right to self-defense, including acting preemptively against terrorists to prevent them from doing harm to our people and our country.<sup>48</sup>

*National Military Strategy to Combat Weapons of Mass Destruction:* Our Nation faces an increasing threat from the use of WMD by hostile state and non-state actors. The complexity of this threat also increases with the rapid advance of technologies used to develop and deliver WMD.<sup>49</sup>

These strategic documents articulate the threat and that the United States is prepared to take preemptive action. The form or nature of this potential preemptive action is where decapitation as a concept has utility. Decapitation should be considered as one possible way to conduct a preemptive attack or a retaliatory strike, as it is a legal exercise of power.

### Decapitation is Legal

The only legal document, which may prohibit the use of decapitation, is Executive Order 12333. This order, which has been interpreted to ban assassination, was first signed by President Gerald Ford in 1976 and then subsequently endorsed by both Presidents Jimmy Carter and Ronald Reagan.<sup>50</sup> The applicable part of Executive Order 12333 that bans assassination states:

2.11 Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.<sup>51</sup>

This sentence is the only reference to assassination in the entire order; Executive Order 12333 states that it only applies to the “intelligence community.”<sup>52</sup> According to the order, the intelligence community is composed of the following agencies:

- (1) The Central Intelligence Agency (CIA);
- (2) The National Security Agency (NSA);
- (3) The Defense Intelligence Agency (DIA);
- (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and
- (7) The staff elements of the Director of Central Intelligence.<sup>53</sup>

The single document in the United States that specifically bans assassination (or decapitation) does not actually apply to military kinetic operations during times of war.<sup>54</sup> What is considered forbidden even during war is the “treacherous” killing of individuals. The basis for this differentiation is contained in the Hague Conventions.

The Hague Convention articles, specifically, Article 23(b) states: “It is especially forbidden to kill or wound treacherously individuals belonging to the hostile nation or army.”<sup>55</sup> The general understanding among nations is that a Soldier can stealthily enter an enemy’s camp and kill the leader, but it would be forbidden to hire someone to poison the leader.<sup>56</sup> Therefore, during times of armed hostilities, the only legal barrier to using decapitation would be recognized international law.<sup>57</sup>

There are two elements of international law that relate to war, they are *jus ad bellum* (justice of going to war) and *jus in bello* (justice during war).<sup>58</sup> *Jus ad bellum* directly relates to how states determine when and why states can declare war. There are several elements to this determination, such as just cause, legitimate authority, just intent, and proportionality.<sup>59</sup> Parks made a case for each of these elements in his writing on Executive Order 12333 that decapitation is authorized.<sup>60</sup> He also analyzed the use of decapitation during a war (*jus in bello*) and determined that it is legally acceptable. In fact, according to Parks, Executive Order 12333’s intent “was not to limit lawful self defense options against legitimate threats to the national security of the United States.”<sup>61</sup> In addition to Parks, others have assessed the legality and morality of decapitation with the same conclusion. For example, Catherine Lotrionte, the Counsel to the President’s Foreign Intelligence Advisory Board at the White House, wrote, “the killing of enemy combatants is considered a legitimate act. Such enemy combatants may include regime leaders.”<sup>62</sup> In 2001, RAND conducted another review of Executive Order 12333 and its relation to the ban on assassination.<sup>63</sup>

The research conducted by RAND quoted Parks’ work noted above which stated that decapitation was an acceptable option in certain situations. Parks lists three forms of self-defense where decapitation would be acceptable. They are (1) “against an actual use of force, or hostile act,” (2) “preemptive self-defense against an imminent use of force,” and (3) “self-defense against a continuing threat.”<sup>64</sup> From these studies, it is clear that neither United States

domestic law nor international law prohibits the use of decapitation as a strategic concept if the proper process is followed to select and approve its use.<sup>65</sup> Decapitation is a legally acceptable option for states to consider.

### Costs and Benefits

As with all strategic concepts and adopted strategies, there are positive and negative consequences. These range from minor to major, but none rise to the level of being prohibitive or require ruling out decapitation as a viable concept. Each event occurs in a unique strategic environment, and therefore, each event requires a unique analysis. The list of costs and benefits below is not all-inclusive; however, it is a starting point for strategic planners to consider when determining whether to consider decapitation. Three benefits will be discussed first, followed by the costs.

*Prevent atrocities.*<sup>66</sup> If through decapitation we can prevent the “murder, torture, serious injury, or continued suffering of many innocent people, then killing the leader is clearly the best option.”<sup>67</sup> There are numerous examples in history, where with 20/20 hindsight, many states would have agreed that a preemptive decapitation operation would have been an acceptable and prudent choice. The most recognizable would be the case of Adolph Hitler. With the advent of WMD, the scale of the potential atrocities is enormous. If the removal of a small group of leadership will alleviate the threat of a WMD attack, then it is almost a requirement to act.

*Minimize casualties.*<sup>68</sup> Conventional wars that have taken the lives of millions of soldiers (many of which have been conscripts) and which also claimed the lives of countless innocent civilians are accepted as moral and ethical events. A decapitation operation could prevent these deaths and corresponding monetary outlays.<sup>69</sup> According to Secretary Weinberger, if “the targeting and killing of the leader or leaders can help to end a war quickly, and thus spare the lives of hundreds of thousands of combatants, it is hard to find any moral argument for not attempting to kill the leaders.”<sup>70</sup>

*Proportional violence.* This is a common sense requirement along the entire spectrum of conflict and it has implications in both the moral element of declaring a war (*jus ad bellum*) and in executing a war (*jus in bello*).<sup>71</sup> A decapitation operation is perfectly proportional if the leader of the state is the one causing the terrorist acts to occur or the imminent danger to another state. Removing just the leader responsible for the danger or the damage is perfectly proportional.

These are the three major benefits to decapitation operations and they should all be fully analyzed before any course of action or strategy is selected. The benefits appear to be enormous and without considering the costs, one could make a deduction that a preemptive decapitation operation in the face of an imminent WMD attack is a perfect fit. This may be the case, but any thorough analysis must also take into account the costs.

*Moral questions.*<sup>72</sup> The questions of morality are the biggest disadvantage to the strategic concept of decapitation. Even though the current strategic environment is complex and dangerous, it will require an enormous amount of public debate in order for the United States to accept decapitation. The 1976 Church committee report, that was initiated to review CIA covert assassination attempts, determined that assassination “violates moral precepts fundamental to our way of life.”<sup>73</sup>

*Requires accurate intelligence.*<sup>74</sup> Building an accurate intelligence picture of past events is hard enough, but a successful decapitation operation will most likely require “predictive intelligence.”<sup>75</sup> That is the ability to determine where and when an individual will be in the future so that a plan can be built to decapitate him. This requires an enormous amount of intelligence tools, techniques, and procedures that are often lacking today. As GEN Hoyster, the commander of the Defense Intelligence Agency during DESERT STORM, stated, you can find out “where he has been. You can find out even where he is. But what you need to know is where he’s going to be because you must mount an attack.”<sup>76</sup>

*Retaliation.*<sup>77</sup> As with the moral questions above, embracing the strategic concept of decapitation will have a serious impact on the global community. If a state were to embrace, and publicly acknowledge and condone the use of decapitation, they would be opening themselves up to potential retaliatory strikes.<sup>78</sup> The issue here is to determine if, when, or ever, a state should publicly embrace the concept, or should they use it only covertly, or not at all.

The three main disadvantages of decapitation operations all affect a state’s legitimacy and will invite disgrace in the court of public opinion. However, the benefits of decapitation have the potential to be so large that it must be considered as a viable option in some cases. As illustrated above, decapitation operations are legal and can be morally justified. The biggest limitations have to do with public opinion, which has changed over the last few years. In 2000, *Public Opinion Quarterly* conducted a poll on assassination.<sup>79</sup> This poll, before the impacts of 9/11, indicated that in 1998 54% of Americans believed the Central Intelligence Agency should be allowed to “assassinate known terrorists before they can commit future terrorist acts.”<sup>80</sup> This was an increase of 14% from the same poll taken in 1986 and indicated a growing number of people can foresee situations in which decapitation would be a necessary tool. Additionally, in

2002, *Public Opinion Quarterly* took another poll following the 9/11 terrorist attack to determine reactions from the event.<sup>81</sup> In this second survey, approximately 77% of Americans favored preemptive decapitation actions to prevent a future terrorist attack.<sup>82</sup> These increases in the number of citizens that have individually determined that some form of preemptive action is prudent to prevent a future terrorist attack are another indication of the level of the threat in the strategic security environment. In addition to the public opinion cost, it would require exacting amounts of intelligence in order to execute a successful operation, but even an unsuccessful operation will have some benefits as described above. Additionally, if a decapitation operation is attempted without success, a more conventional operation can always take place, as part of or after it is determined that a decapitation operation will not be successful. That is, if the strategic environment is shaped so that a decapitation operation is acceptable, it can always be attempted and then if it is unsuccessful, a large conventional force could still be deployed if required.

### Recommendation

Despite the potential legitimacy and moral costs of a decapitation operation, the advantages of this strategic concept are so great that it must be available to planners and the nation. The list of costs or disadvantages to decapitation as a strategic concept discussed above is not complete, but even the three listed are formidable obstacles. However, they are not insurmountable; decapitation, in today's strategic environment, may be the exact tool required for certain situations. The most obvious situation would be an imminent detonation of a WMD either on United States soil or against an ally. If the United States were unable to locate the device, but had the ability to find, fix, and target the leadership that was ready to give the signal to detonate, the President would be obligated to pursue that option. The United States must be ready to respond with a decapitation strike when it becomes necessary.

Although Executive Order 12333 does not prohibit decapitation operations as written, it should be modified to ensure the domestic public and the world are aware that the United States has the capability and the moral courage to undertake decapitation operations. This recommendation is not new and members of Congress have even put forth legislature on this issue. For example, even before the events of 9/11 occurred, Congressman Bob Barr (R-GA) introduced a House bill on 3 January 2001, titled "Terrorist Elimination Act of 2001."<sup>83</sup> The bill's intent was to remove the Executive Order 12333 restrictions on using decapitation strikes when "all other reasonable options have failed or are not available."<sup>84</sup> In 2003, Congressman Terry Everett (R-AL) introduced another House bill, which was essentially the same as Congressman

Barr's. The 2003 bill would, "nullif[y] the effect of provisions of three Presidential executive orders prohibiting Federal employees from attempting and performing assassinations."<sup>85</sup> These bills, along with the nature of the threat, indicate the time is right for the United States to embrace decapitation as a viable strategic concept.

Instead of approving a bill to remove any doubt about whether decapitation operations are legal or authorized, the United States should take these three steps. First, it should clearly differentiate between assassination and decapitation operations in all written and oral communications. This is a vital step in the process and should be addressed much the same way the United States views murder (assassination) and the death penalty (decapitation). Murder is illegal and immoral, but once a state makes this determination, it is obligated to act and punish the murderer. States accomplish this task by following an established process and if the result is the death penalty, the state carries it out.

Second, add an amendment to the existing Executive Order 12333 to clarify its intent. Thomas Wingfield, Affiliated Professor at Georgetown University, proposed just such an amendment that has been modified to take into account the differences in assassination and decapitation, as follows:

The otherwise legal targeting of lawful combatants in armed conflict, including all members of any enemy nation's or organization's operational chain of command is not forbidden by this order. These decapitation operations will require the utmost scrutiny before they are attempted and will only be considered when all other avenues have been exhausted.<sup>86</sup>

Third, the United States should take small, subtle, but conscious steps to discuss and spread this change in policy. This strategic communication plan will require effort and take time, but if the United States operated under a policy of Mutual Assured Destruction for several years, it should be able to embrace a concept that keeps millions of innocents alive by taking the life of a leader who is putting them at risk.

### Summary/Conclusion

Decapitation is just one of the many available ways to accomplish the United States' desired ends. The key point is that it must be made available. It is a legal strategy that is both ethical and moral in light of the current threats. Many researchers have reviewed and discussed the Geneva Conventions, the Hague Conventions, international law, and other potential legal, moral and ethical constraints on its use. The bottom line was summarized perfectly by Secretary Weinberger in late 2001, when he wrote that the view, "that sovereigns had tacitly agreed to secure their own persons, was not based on anything except their own agreement."<sup>87</sup>



In other words, we are debating whether or not it is permissible to attack the senior leaders of states and organizations only because past leaders wanted to be kept free from attack. This is an illogical assumption and in light of the horrendous amount of destruction WMD can produce, a totally inaccurate picture of the current strategic environment.

The nature of the global political landscape today is vastly different than at any other time in history. The ability for a single state or a single person to hold millions of lives at risk, calls for different responses than in the past. The United States may not have the time to respond conventionally and even if it could, why put more lives at risk when the enemy leader is the focus of the disagreement? Comments such as the one below are starting to be recorded that indicate people fight only because the leadership requires it.

But today, as more and more people in war-torn countries cite the greed of their leaders as the only fuel for continuing battle, they fight more for self- and group-preservation than for an ideal world that will be realized through fighting.<sup>88</sup>

Ordinary citizens are often conscripted and forced to fight on behalf of a leader. Even when this is true, and the United States has decided force is the only way to resolve the conflict, the normal response would most likely be to follow Clausewitz's guidance. To determine what type of war the United States is ready to engage in and then develop a strategy to fight that war.<sup>89</sup> Whether the United States is involved in a counter-insurgency or a conventional war, it should strongly consider a decapitation operation first in light of the human and monetary costs. Choosing to fight conventionally out of a moral or ethical "problem" is not a true problem; it just requires enough courage to make the right decision.

The United States itself took steps to conduct covert decapitation operations in the recent past through the Central Intelligence Agency and also as smaller operations within a larger conventional war. The main difference being that the United States has not yet attempted an overt decapitation operation as a stand-alone strategy. When President Bush gave Saddam 48 hours to leave Iraq or else in March 2003, he might have had more credibility or coercive power if Saddam was afraid for his own life.<sup>90</sup> If the United States had overt decapitation as an available tool in 2003, the world might have been able to avert a large conventional struggle followed by a counter-insurgency.

There are definite costs to decapitation operations. The benefits, however, in lives and money saved far outweigh any moral, ethical, or legal arguments against undertaking decapitation strikes. These costs can be mitigated if the recommendations above are followed in advance and the global community made aware of the nature of the threat and the potential

option of decapitation. This will require a concerted effort on part of the United States' leadership and even the media, but in light of the threat, it must be undertaken.

## Endnotes

<sup>1</sup> J. Boone Bartholomees, Jr. included a quick review of decapitation in his article "A Survey of the Theory of Strategy." This article was an incentive and genesis of the central theme for this paper. See J. Boone Bartholomees, Jr., "A Survey of the Theory of Strategy," in *U.S. Army War College Guide to National Security and Policy*, 2<sup>nd</sup> edition (Carlisle Barracks, PA: Strategic Studies Institute, June 2006), 94.

<sup>2</sup> Robert Wilde, "The Guillotine," no date, linked from the *About.com Home Page* at "European History," available from <http://europeanhistory.about.com/cs/frenchrevolution/a/uillotine.htm>; Internet; accessed 23 October 2006.

<sup>3</sup> Ibid.

<sup>4</sup> David Gow, "Bush Gives Green Light to CIA for Assassination of Named Terrorists," *The Guardian*, 29 October 2001; available from <http://www.commondreams.org/headlines01/1029-04.htm>; Internet; accessed 10 October 2006.

<sup>5</sup> Richard J. Norton, "Haiti" Case Study, National Security Policy and Strategy Publication (Carlisle Barracks, PA: U.S. Army War College, AY 2007).

<sup>6</sup> Merriam Webster's Third New International Dictionary (Springfield, MA: Merriam-Webster, 1981), 1911.

<sup>7</sup> Ibid.

<sup>8</sup> Stephen Kinzer, *Overthrow* (New York: Henry Holt and Company, 2006), 1-6.

<sup>9</sup> Ibid, 9-30.

<sup>10</sup> W. Hays Parks, "Executive Order 12333 and Assassination," Memorandum of Law, Army Pamphlet 27-50-204 (Washington D.C.: U.S. Department of the Army, December 1989), 5-8.

<sup>11</sup> Ibid.

<sup>12</sup> J. Manning Bolchoz, *Center of Gravity: Justification for Assassination?*, Strategy Research Project (Carlisle Barracks: U.S. Army War College, 9 April 1999), 3-4.

<sup>13</sup> Michael J. Taliento, Jr., *Targeting the Leadership of Terrorist Organizations*, Strategy Research Project (Carlisle Barracks, PA: U.S. Army War College, 9 April 2002), 3-4.

<sup>14</sup> Parks, 5.

<sup>15</sup> Stephen J. Hosmer, *Operations Against Enemy Leaders* (Santa Monica, CA: RAND, 2001), 13.

<sup>16</sup> *Global Security Home Page*, Military section, available from [http://www.globalsecurity.org/military/ops/el\\_dorado\\_canyon.htm](http://www.globalsecurity.org/military/ops/el_dorado_canyon.htm); Internet; accessed 14 October 2006.

<sup>17</sup> Caspar W. Weinberger, "When Can We Target the Leaders?" *Strategic Review* (Spring 2001), 21.

<sup>18</sup> Hosmer, 28.

<sup>19</sup> Hosmer, 29.

<sup>20</sup> William J. Clinton, "Bill Clinton: I Got Closer to Killing bin Laden," 25 September 2006, linked from *Cable News Network Home Page*, available from <http://www.cnn.com/2006/OLITICS/09/24/clinton.binladen/index.html>; Internet; accessed 14 October 2006.

<sup>21</sup> Howard M. Hensel, editor, *The Law of Armed Conflict* (Burlington VT: Ashgate Publishing House, 2005), 27.

<sup>22</sup> "U.S. Missiles Pound Targets in Afghanistan, Sudan," 20 August 1988, linked from *Cable News Network Home Page*, available from <http://www.cnn.com/US/9808/20/us.strikes.01/>; Internet; accessed 14 October 2006.

<sup>23</sup> Bob Woodward, "Lethal Operations are Under way to Crush bin Laden," 21 October 2001, linked from the *Houston Chronicle Home Page*, available from <http://www.chron.com/dispatch/story.mpl/special/terror/front/1098582.html>; Internet; accessed 14 October 2006.

<sup>24</sup> Barton Gellman and Thomas E. Ricks, "U.S. Concludes Bin Laden Escaped at Tora Bora Fight," 17 April 2002, linked from the *Washington Post Home Page*, available from <http://www.washingtonpost.com/ac2/wp-dyn/A62618-2002Apr16?language=printer>; Internet; accessed 14 October 2006.

<sup>25</sup> Ibid.

<sup>26</sup> Hensel, 22.

<sup>27</sup> Jeffrey T. Richelson, "Operation Desert Storm: Ten Years After," 17 January 2001, linked from *The George Washington University Home Page*, available from <http://www.gwu.edu/nsarchiv/NSAEBB/NSAEBB39/>; Internet; accessed 15 October 2006.

<sup>28</sup> Ibid.

<sup>29</sup> See oral history of Desert Storm interviews with both General Norman Schwarzkopf and General Charles Horner at "The Gulf War," 9 January 1996, linked from the *Frontline Home Page*, available from <http://www.pbs.org/wgbh/pages/frontline/gulf/>; Internet; accessed 15 October 2006. Both of the generals discuss attacks on Saddam that came close to success.

<sup>30</sup> Robert S. Litwak, "Regime Change or Change in a Regime," in *Proliferation of WMD in the Middle East*, editor James A. Russell (New York, NY: Palgrave MacMillan Publishing, 2006), 171.

<sup>31</sup> Ibid.

<sup>32</sup> Mark A. Dungan, *A Global Hegemon's Prerogative: The Bush Doctrine of Preemption and the Road to Iraq*, Strategy Research Project (Carlisle Barracks, PA: U.S. Army War College, 3 May 2004), 2-4.

<sup>33</sup> Ibid, 2.

<sup>34</sup> George W. Bush, *The National Security Strategy of the United States of America* (Washington D.C.: The White House, March 2006).

<sup>35</sup> John King, David Ensor, Jamie McIntyre, and Chris Plante, "Decapitation Strike was Aimed at Saddam," 20 March 2003, linked from the Cable News Network Home Page, available from <http://www.cnn.com/2003/world/meast/03/20/sprg.iqr.target.saddam/>; Internet; accessed 5 October 2006.

<sup>36</sup> Ibid, 4.

<sup>37</sup> John A. Warden, *The Air Campaign* (Washington D.C.: National Defense University Press, 1988), 9-10.

<sup>38</sup> Donald H. Rumsfeld, *National Military Strategic Plan for the War on Terrorism* (Washington D.C.: The Joint Staff, 1 February 2006), 14.

<sup>39</sup> For examples see the *National Military Strategic Plan for the War on Terrorism*, pages 23-24 and the *National Military Strategy to Combat Weapons of Mass Destruction* page 16 (both end noted above).

<sup>40</sup> Donald H. Rumsfeld, *The National Defense Strategy of the United States of America* (Washington D.C.: The Joint Staff, March 2005), 14-15.

<sup>41</sup> Ibid, 15.

<sup>42</sup> Gow.

<sup>43</sup> George W. Bush, *The National Security Strategy of the United States of America* (Washington D.C.: The White House, March 2006), 18.

<sup>44</sup> George W. Bush, *The National Security Strategy of the United States of America* (Washington D.C.: The White House, September 2002), 15.

<sup>45</sup> Michael O'Hanlon, "Assessing the State of Homeland Security," Testimony before then Subcommittee on Terrorism, Technology, and Homeland Security of the Committee of the Judiciary, October 26, 2005. Extracted from the National Security Policy and Strategy Readings, Vol 3, Department of National Security and Strategy (Carlisle Barracks, PA: U.S. Army War College, 4 AY 2007), 135-137.

<sup>46</sup> Bush, 18.

<sup>47</sup> Rumsfeld, *National Military Strategic Plan for the War on Terrorism*, 10.

<sup>48</sup> Ibid, 2.

<sup>49</sup> Rumsfeld, *National Military Strategy to Combat Weapons of Mass Destruction*, 3.

<sup>50</sup> Hensel, 23.

<sup>51</sup> Ronald Reagan, Executive Order 12333—United States Intelligence Activities, 4 December 1981; available from <https://www.cia.gov/cia/information/eo12333.html>; Internet; accessed 14 October 2006.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Hensel, 25.

<sup>55</sup> Parties to the Hague Conventions on the Laws and Customs of War on Land, 1907, available from <http://www.icrc.org/ihl.nsf/FULL/195?OpenDocument>; Internet; accessed 19 October 2006.

<sup>56</sup> Weinberger, 23.

<sup>57</sup> Ibid.

<sup>58</sup> Martin L. Cook, “Ethical Issues in War: An Overview,” in *U.S. Army War College Guide to National Security and Policy*, 2<sup>nd</sup> edition (Carlisle Barracks, PA: Strategic Studies Institute, June 2006), 24.

<sup>59</sup> Ibid.

<sup>60</sup> Parks, 5-8.

<sup>61</sup> Parks, 8.

<sup>62</sup> Hensel, 26.

<sup>63</sup> Hosmer, 11.

<sup>64</sup> Hosmer, 11.

<sup>65</sup> Hensel, 27.

<sup>66</sup> Catherine Lotrionte, “When to Target Leaders,” in *Reshaping Rogue States*, ed. Alexander T. J. Lennon and Camille Eiss (Cambridge, MA: The Center for Strategic and International Studies, 2004), 111.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Weinberger, 22.

<sup>71</sup> Martin L. Cook, "Ethical Issues in War: An Overview," in *U.S. Army War College Guide to National Security and Policy*, 2<sup>nd</sup> edition, ed. J. Boone Bartholomees, Jr. (Carlisle Barracks, PA: Strategic Studies Institute, June 2006), 26.

<sup>72</sup> Lotrionte, 114.

<sup>73</sup> Select Senate Committee to Study Governmental Operations with Respect to Intelligence Activities, Alleged Assassination Plots Involving Foreign Leaders, S. Rep. No. 94-465 (Washington, DC: U.S. Government Printing Office, 1975); Internet; available from <http://foia.state.gov/reports/churchreport.asp>; accessed 18 October 2006.

<sup>74</sup> Hosmer, 44-45.

<sup>75</sup> Hosmer, xvii.

<sup>76</sup> Hosmer, 45.

<sup>77</sup> Lotrionte, 115.

<sup>78</sup> Ibid.

<sup>79</sup> Sheldon Appleton, "Assassinations," *Public Opinion Quarterly* 64 (Winter 2000): 495. Lieutenant Colonel Victor D. Irvin used this same research in his U.S. Army War College paper on assassination. For additional info refer to Victor D. Irvin, *Political Assassination, the Strategic Weapon of Choice*, Strategy Research Project (Carlisle Barracks, PA: U.S. Army War College, 9 April 2002), 9-10.

<sup>80</sup> Ibid, 498.

<sup>81</sup> Leonie Huddy, Nadia Khatib, and Theresa Capelos, "Reactions to the Terrorist Attacks of September 11, 2001" *Public Opinion Quarterly* 66 (Fall 2002): 418.

<sup>82</sup> Ibid, 425.

<sup>83</sup> Bob Barr, Terrorist Elimination Act of 2001, linked from *Trial Briefs Home Page*, available from <http://www.trialbriefs.com/HR19.htm>; Internet; accessed 19 October 2001.

<sup>84</sup> Ibid.

<sup>85</sup> Terry Everett, Terrorist Elimination Act, linked from *Congressman Terry Everett's Home Page*, available from [http://www.everett.house.gov/index.php?option=com\\_content&task=iew&id=324](http://www.everett.house.gov/index.php?option=com_content&task=iew&id=324); Internet; accessed 19 October 2006.

<sup>86</sup> This recommended amendment is a slight rewording of Wingfield's recommendation and the addition of a sentence from the Terrorist Elimination Acts of 2001 and 2003. See Thomas C. Wingfield, Taking Aim at Regime Elites: Assassination, Tyrannicide, and the Clancy Doctrine," *Maryland Journal of International Law and Trade* (Vol. 22, No. 2, 1999): 315.

<sup>87</sup> Weinberger, 23.

<sup>88</sup> Mary B. Anderson, "Humanitarian NGOs in Conflict Intervention," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (Washington DC: Institute of Peace Press, 1996), 644.

<sup>89</sup> Carl von Clausewitz, *On War*, Michael Howard and Peter Paret, eds. and trans. (Princeton, NJ: Princeton University Press, 1976), 88-89.

<sup>90</sup> George W. Bush, "President Says Saddam Hussein Must Leave Iraq Within 48 Hours," 17 March 2003, linked from The White House Home Page, available from <http://www.whitehouse.gov/news/releases/2003/03/20030317-7.html>; Internet; accessed 19 October 2006.

